

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE CONNER
08 CIV. 1463

REIDAR M. JULIUSSEN, JR.,

Plaintiff

vs.

BUCHANAN MARINE, L.P.,

Defendant

COMPLAINT

Docket No.

DEMAND FOR JURY TRIAL

FILED
U.S. DISTRICT COURT
S.D. OF N.Y. W.P.
2008 FEB 11 P 4:30

Plaintiff REIDAR M. JULIUSSEN, JR., by his attorneys, Levene Gouldin & Thompson, LLP, alleges for his Complaint against defendant BUCHANAN MARINE, L.P. ("Buchanan") as follows:

PARTIES

1. At all times mentioned herein, Plaintiff REIDAR M. JULIUSSEN, JR. was and is a citizen of New York State who presently resides at 2135 NY Route 7, Harpursville, New York 13787.

2. At all times mentioned herein, Defendant BUCHANAN MARINE, L.P. was and is a limited partnership formed with the Connecticut Secretary of State, and is therefore a citizen of the State of Connecticut. Buchanan Marine, L.P.'s address is 39 Ferry Street, New Haven, Connecticut 06513.

JURISDICTION AND VENUE

3. The jurisdiction of this court is invoked pursuant to: The Jones Act, 46 U.S.C. § 688 and the General Maritime Law of the United States, and this Court has jurisdiction pursuant to 28 U.S.C. § 1331 ; and the United States Constitution, Article III, § 2. The injury to the plaintiff occurred while he was on vessel located on the navigable waters of the United States and while such vessel was operating in maritime activities. Buchanan Marine, L.P. regularly transacts business in the State of New York and within the geographical boundaries of the Southern District of New York in particular.

FACTS COMMON TO ALL CAUSES OF ACTION

4. At all times mentioned herein, Reidar Juliussen was employed by Buchanan Marine, L.P. as a Mate on the tugboat Buchanan One owned by Buchanan Marine L.P..

5. Plaintiff Reidar Juliussen was injured on March 27, 2005 in the course of his employment and in the performance of his duties while descending a narrow set of stairs on the Buchanan One which vessel was in navigation upon the waters of the Long Island Sound at the time of the injury.

6. Reidar Juliussen slipped and fell while descending the stairs and, as a result of such fall, his right knee was forced to strike the protruding doorknob of the door at the bottom of the stairs.

COUNT I

(JONES ACT - NEGLIGENCE)

7. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 6 above, as if fully set forth herein.

8. At said time and place, 46 U.S.C. §688, commonly known as the Jones Act, placed a legal duty on defendant Buchanan Marine, L.P., as plaintiff's employer, to:

- a) Operate and maintain its vessel, including the Buchanan One, in a reasonably safe manner and condition consistent with all applicable rules of navigation;
- b) Operate and maintain its vessel, including the Buchanan One, so as to prevent the creation or the presence of slip hazards in and about the walkways and stairs;
- c) Operate and maintain its vessel, including the Buchanan One, and the stairways thereon, with steps with appropriate and adequate skid resistant materials on their surfaces;

- d) Provide its employees, including plaintiff, with reasonably safe means and passageway for moving on and about the vessel, including moving to and from differing elevations upon said vessel;
- e) Provide its employees, including plaintiff, with a reasonably safe place to work;
- f) Provide reasonable and adequate lighting on and about the vessel, including the stairs and stairwells;
- g) Provide its employees, including plaintiff, with a safe and seaworthy vessel.

9. At the aforesaid time and place when and where plaintiff slipped and fell, defendant Buchanan Marine, L.P., acting through its agents, servants and employees, breached its aforesaid legal duties and was negligent in one or more of the following respects:

- a) Failing to operate and maintain the Buchanan One, in a reasonably safe manner and condition consistent with all applicable rules of navigation;
- b) Failing to operate and maintain the Buchanan One, so as to prevent the creation or the presence of slip hazards in and about the walkways and stairs;
- c) Failing to operate and maintain the Buchanan One, and the stairways thereon, with steps with appropriate and adequate skid resistant materials on the surfaces thereof;
- d) Failing to provide its employees, including plaintiff, with reasonably safe means and passageway for moving on and about the Buchanan One, including moving to and from differing elevations upon said vessel;
- e) Failing to provide its employees, including plaintiff, with a reasonably safe place to work upon the Buchanan One;

- f) Failing to provide reasonable and adequate lighting on and about the Buchanan One, including the stairs and stairwells;
- g) Failing to provide its employees, including plaintiff, with a safe and seaworthy vessel.

10. Solely as a result of one of more of the defendant's aforesaid negligent acts or omissions, plaintiff sustained serious and permanent injuries and other damages including:

- a) A ruptured quadriceps tendon in the right leg requiring surgery with resulting scarring and disfigurement;
- b) Pain and suffering from the time of the accident until the present and pain and suffering in the future;
- c) Lost wages in the past in the approximate amount of \$8,250.00;
- d) Diminution in earning capacity from the time of the accident and in the future;
- e) Medical, nursing, surgical, therapeutic and other expenses of reasonably necessary medical treatment, diagnosis, therapy and care in the past, and reasonably likely to be required in the future;
- f) Temporary total disability from the time of the accident until the time of maximum medical improvement and permanent partial disability thereafter;
- g) Being rendered more susceptible to future injury as a result of the injuries sustained in the fall.

COUNT II

(GENERAL MARITIME LAW - WARRANTY OF SEAWORTHINESS)

11. Plaintiff incorporates by reference each and every allegation contained in paragraphs

1 through 10 above, as if fully set forth herein.

12. At the time and place when plaintiff fell sustaining severe injury to his right knee and leg, the General Maritime Law of the United States imposed on defendant the legal duty to warrant the seaworthiness and fitness of the Buchanan One, including its walkways, stairways and steps.

13. At the time and place when plaintiff fell, defendant breached its warranty of seaworthiness in that the walkways, stairways and steps of the Buchanan One were unfit for their intended purpose of providing a reasonably safe place to walk and to descend from one level to another in that the the stairway and the steps did not have appropriate or adequate skid resistant materials on the surfaces thereof and that there was not reasonable and adequate lighting on or about the stairs and stairwells.

REQUEST FOR RELIEF

WHEREFORE, plaintiff demands:

- a. Damages in the amount of \$400,000.00 for physical pain and suffering including physical disability, disfigurement, impairment, and inconvenience, and the effect of the plaintiff's injuries on the normal pursuits and pleasures of life;
- b. Damages in the amount of \$100,000.00 for mental anguish and feelings of economic insecurity caused by disability;
- c. Damages in the amount of \$8,250.00 for income lost in the past;
- d. Damages in the amount of \$200,000.00 for impairment of earning capacity or ability in the future, including impairment in the normal progress in the plaintiff's earning capacity due to his physical condition;
- e. Damages in the amount of \$8,565.70 for medical expenses;


DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DECLARATION UNDER PENALTY OF PERJURY

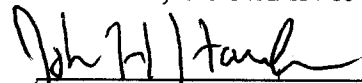
The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained in the complaint is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at: Harpursville, New York on
February 5, 2008.


Reidar M. Juliusen, Jr.

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